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Attorneys for Plaintiff Sean Otis, individually
and on behalf of all others similarly situated
and as a representative of aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

SEAN OTIS, individually and on behalf of all
others similarly situated,

Plaintiff,

vs.

RAY STONE INCORPORATED, a California
Corporation; and DOES 1 through 25,

Defendants.

Case No.: 34-2019-00269952

**STIPULATION OF CLASS ACTION
SETTLEMENT**

Case filed: November 26, 2019

I. INTRODUCTION AND SUMMARY OF SETTLEMENT TERMS

This stipulation sets forth the terms of the settlement of a class action filed on behalf
of current and former non-exempt employees who worked for Defendant Ray Stone

1 Incorporated (“Defendant” or “Ray Stone”) in California during the Class Period, as defined
2 below. The Second Amended Complaint alleges causes of action against Defendant for: (1)
3 failure to provide meal and rest breaks; (2) failure to pay overtime; (3) unlawful failure to pay
4 split shift pay; (4) failure to provide accurate wage statements; (5) violation of the Unfair
5 Practices Act; (6) recovery of civil penalties under the California Labor Code Private
6 Attorneys’ General Act (“PAGA”), California Labor Code sections 2698-2699.5; and (7)
7 recovery of derivative penalties.

8 Under the terms of the parties’ Settlement and after final approval and entry of
9 judgment pursuant to California Rule of Court 3.769, Defendant will pay a gross settlement
10 amount of five hundred thousand dollars (\$500,000) (the “Gross Settlement Amount”), plus
11 the employer’s share of payroll taxes. The Settlement will be administered by a third-party
12 settlement administrator with experience administering class action settlements of this type.
13 Until distribution, the Gross Settlement Amount will be held in a Qualified Settlement Fund
14 established by the Settlement Administrator. This is an opt-out settlement, and Class Members
15 (as defined in Section II) will receive a settlement payment unless they timely submit a
16 Request for Exclusion. Settlement Class Members shall not be required to submit a claim
17 form.

18 The Parties agree and propose that the following disbursements will be made from the
19 Gross Settlement Amount, subject to Court approval at the Final Fairness and Approval
20 Hearing:

- 21 A. Settlement Administration Costs, estimated to be \$8,000.
- 22 B. Class Counsel’s Attorneys’ Fees, to be approved by the Court, in an amount
23 not to exceed one hundred seventy-five thousand dollars (\$175,000), which is thirty-five
24 percent of the Gross Settlement Amount;
- 25 C. Class Counsel’s actual Costs, as approved by the Court (currently estimated to
26 be approximately \$15,000);

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1 D. A Service and Release Award to Plaintiff Sean Otis in the amount of \$15,000
2 as payment for his time and efforts in pursuing this Action, and for the broader release and
3 other covenants that he will be providing to Defendant;

4 E. A payment of \$15,000 to the California Labor and Workforce Development
5 Agency (the “LWDA Payment”), which represents the Labor and Workforce Development
6 Agency’s (“LWDA”) 75% share of the total \$20,000 allocated to Plaintiff’s PAGA claims
7 (the “PAGA Amount”). The other 25% of the PAGA Amount (\$5,000) will become part of
8 the Net Settlement Amount (defined below) distributed to the Settlement Class.

9 F. The remainder of the Gross Settlement Amount (the “Net Settlement Amount”)
10 will be distributed to Settlement Class Members based on the methodology discussed in
11 section IV.L.1, below. It is estimated that the Net Settlement Amount will be approximately
12 \$272,000 after deductions for Class Counsel’s Attorneys’ Fees, Class Counsel’s Costs,
13 Settlement Administration Costs, the Service and Release Awards, and the payment to the
14 LWDA.

15 Defendant represents that the Class consisted of approximately 275 members as of
16 August 18, 2020.

17 **II. DEFINITIONS**

18 As used in this Stipulation, the following terms shall have the meanings set forth
19 below:

20 A. “Action” means this putative class and representative action pending in
21 Sacramento County Superior Court titled *Otis v Ray Stone Incorporated*, Case No. 34-2019-
22 00269952.

23 B. “Agreement” or “Stipulation” means this Stipulation of Class Action
24 Settlement.

25 C. “Class” means all individuals who worked for Defendant in California as non-
26 exempt employees during the applicable Class Period (as defined below), and includes those
27 individuals whose work originated in and was performed in a temporary position under the
28 auspices of a staffing company.

1 D. "Class Counsel" means Aaron C. Gundzik and Rebecca G. Gundzik of
2 Gundzik Gundzik Heeger LLP, 14011 Ventura Blvd., Suite 206E, Sherman Oaks, CA 91423,
3 (818) 290-7461, and Galen Shimoda, Shimoda Law Corp., 9401 E. Stockton Blvd., Suite 200,
4 Elk Grove, CA 95624, (916) 525-0716.

5 E. "Class Counsel's Attorneys' Fees" means the amount to be awarded to Class
6 Counsel from the Gross Settlement Amount for their attorneys' fees for their work in this
7 Action, subject to Court approval at the Final Fairness and Approval Hearing.

8 F. "Class Counsel's Costs" means the amount to be awarded to Class Counsel
9 from the Gross Settlement Amount to reimburse Class Counsel for their reasonable costs and
10 expenses incurred in the Action, subject to Court approval at the Final Fairness and Approval
11 Hearing.

12 G. "Class Data" means each Class Member's full name, social security number,
13 last known address, and telephone number(s), along with the number of weeks that each Class
14 Member worked for Defendant in a Class position and the weeks that each Sub-Class Member
15 worked for Defendant in a Sub-Class position during the Class Period to the extent that this
16 information is in Defendant's reasonable possession, and includes those weeks when Class
17 Members and Sub-Class Members performed work which originated in and was performed in
18 a temporary position under the auspices of a staffing company.

19 H. "Class Member" is a person who is a member of the Class.

20 I. "Class Period" means the period from November 26, 2015 through the earlier
21 of the following dates: (a) the date that this Settlement is preliminarily approved by the court;
22 and (b) November 1, 2020.

23 J. "Complaint" means the Second Amended Complaint on file in the Action.

24 K. "Court" means the Superior Court of the State of California, in and for the
25 County of Sacramento, where the Action is pending.

26 L. "Defendant" means Ray Stone Incorporated.

27 M. "Defendant's Counsel" means Barbara A. Cotter, Cook Brown LLP, 2407
28 J Street, 2nd Floor, Sacramento, Calif. 95816, (916) 442-3100.

1 N. "Effective Date" means 65 days after the date of entry of the order of the "Final
2 Approval Order." If there is an appeal of the judgment, the Effective Date shall be extended
3 to 65 days after resolution of the appeal, assuming the appeal has been finally dismissed with
4 no material change to this Settlement Agreement and no right to pursue further remedies or
5 relief. The Settlement shall not be effective until the Court's final order and judgment are
6 completely final and there is no further recourse by any appellant or objector who seeks to
7 contest such final order or the Settlement.

8 O. "Employer's Withholding Share" means Defendant's share of all federal, state,
9 and local taxes and required withholdings, including without limitation, FICA, Medicare tax,
10 FUTA, and state unemployment taxes.

11 P. "Final Approval Order" means the Order Granting Final Approval of Class
12 Action Settlement and Judgment entered by the Court.

13 Q. "Final Fairness and Approval Hearing" means the hearing on Plaintiffs'
14 Motion for Final Approval of Class Action Settlement at which the Court will be asked to give
15 final approval to the settlement terms set forth herein and to enter judgment.

16 R. "Gross Settlement Amount" means the five hundred thousand dollars
17 (\$500,000) which Defendant will pay under this Settlement.

18 S. "LWDA Payment" means 75% of the PAGA Payment. The LWDA Payment
19 will be paid to the LWDA.

20 T. "Net Settlement Amount" means the amount remaining from the Gross
21 Settlement Amount after payments of Court-approved Class Counsel's Attorney's Fees and
22 Class Counsel's Costs, Service and Release Awards to the Representative Plaintiffs,
23 Settlement Administration Costs, and the LWDA Payment. It is estimated that the Net
24 Settlement Amount will be at least \$272,000.

25 U. "Notice of Settlement" means the "Notice of Proposed Class Action Settlement
26 and Final Approval Hearing," the form of which is attached hereto as Exhibit A.

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1 V. “Notice of Objection” means any written objection to this Settlement sent by a
2 Settlement Class Member to the Settlement Administrator as specified herein and in the
3 Notice of Settlement.

4 W. “PAGA Amount” means the \$20,000 portion of the Gross Settlement Amount
5 that the Parties allocated to settlement of Plaintiffs’ PAGA claims.

6 X. “Parties” means the Representative Plaintiff on behalf of himself and all
7 Settlement Class Members and Defendant.

8 Y. “Preliminary Approval Date” is the date that the Court grants preliminary
9 approval of this Settlement pursuant to California Rule of Court 3.769(c).

10 Z. “Qualified Settlement Fund” or “QSF” means a federally insured bank account
11 to be established by the Settlement Administrator into which all payments from Defendant
12 related to this Settlement will be deposited and from which all payments authorized by the
13 Court will be made. The QSF will be established prior to Defendant’s deposit of the Gross
14 Settlement Amount. Upon Preliminary Approval, Defendant may deposit the funds to be
15 distributed after Final Approval.

16 AA. “Qualifying Workweek” means the number of weeks that each Class Member
17 worked for Defendant in a Class position during the Class Period, and includes those weeks
18 when Class Members performed work which originated in and was performed in a temporary
19 position under the auspices of a staffing company.

20 BB. As determined by the Court, “Released Claims” means all claims arising
21 during the Class Period under state, federal and local law arising out of the allegations in the
22 administrative and civil complaints in this action, and that reasonably arise or could have
23 arisen out of the facts alleged in the case as to all Class Members, including claims arising
24 under California Labor Code sections 200, 201, 202, 203, 226, 226.3, 226.7, 510, 1174, 1194,
25 1197.1, 2698, 2699, 2699.3, 2699.5, 2751, claims arising under California Wage Orders,
26 claims arising under Business and Professions Code section 17200, and all class claims and
27 representative claims and aggrieved employee claims, including, but not limited to, any claims
28 for meal or rest periods, or meal or rest period premiums, claims for unpaid wages, overtime

1 and/or minimum wages, claims related to payment of wages at separation, termination or
2 furlough, claims arising from or related to any failure to provide accurate and itemized
3 paystubs/ claims related to unfair competition, unfair business practices, and/or fraudulent
4 business practices; claims for PAGA penalties, waiting time penalties, civil penalties, and/or
5 penalties of any nature; claims for interest, fees, costs; claims for failure to pay benefits,
6 bonuses, incentive payments of any kind, and lost paid time off and or sick leave benefits.

7 CC. "Released Parties" means Defendant, Renoir Staffing, LLC, Renoir Staffing
8 Services, Inc., and Renoir Staffing, Inc. and each of their respective past, present and/or future
9 officers, directors, members, managers, employees, agents, representatives, attorneys,
10 insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries,
11 affiliates, divisions, predecessors, successors, assigns, joint venturers, affiliates and attorneys,
12 but only as to the Released Claims. The term "affiliates" includes any and all entities, facilities
13 and/ or real properties where Class Members were assigned when working for Defendant,
14 including all senior living and multi-family complexes managed and/or owned in full or in
15 part by Ray Stone, Inc. It further includes all temporary agencies or staffing agencies which
16 contracted with Defendant to place class members, process their payroll and/or which jointly
17 employed Class Members during the Class Period.

18 DD. "Representative Plaintiff" means Plaintiff Sean Otis.

19 EE. "Request for Exclusion" means a written and signed request by a Class
20 Member to be excluded from the Settlement Class that is submitted in accordance with the
21 procedure set forth herein, also known as an "opt-out request."

22 FF. "Response Deadline" means the date that is 45 days after mailing of Notices
23 of Settlement. Provided, for Notices of Settlement that are re-mailed to a different address,
24 the Response Deadline will be the earlier of: (1) 45 days after re-mailing, and (2) ten days
25 before the initial date set by the Court for the Final Fairness and Approval Hearing.

26 GG. "Service and Release Award" means the payment to be made to the
27 Representative Plaintiff for his service to the Class and for the broader general release that he
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1 is providing to Defendant, which is in addition to whatever payment he otherwise would be
2 entitled to receive as a Settlement Class Member.

3 HH. Settlement” means the disposition of the Action and all related claims
4 effectuated by this Agreement.

5 II. “Settlement Administration Costs” means the fees and costs incurred or
6 charged by the Settlement Administrator in connection with the execution of its duties under
7 this Agreement including, but not limited to fees and costs associated with: (1) establishing
8 and maintaining the QSF; (2) preparing, issuing and/or monitoring reports, filings, and notices
9 (including the cost of printing and mailing all notices and other documents to the Class
10 Members) required to be prepared in the course of administering the Settlement; (3)
11 computing the amount of the settlement payments, taxes, and any other payments to be made
12 under this Agreement; (4) calculating and handling inquiries about the calculation of
13 individual settlement payments; (5) establishing and operating a settlement payment center
14 website, address, and phone number to receive Class Members’ inquiries about the Settlement;
15 (6) providing a due diligence declaration for submission to the Court prior to the final approval
16 hearing; (7) printing and providing Settlement Class Members and the Plaintiffs with W-2 and
17 1099 forms as required under this Agreement and applicable law; (8) preparing, issuing, and
18 filing any tax returns and information returns and any other filings required by any
19 governmental taxing authority or other governmental agency; and (9) for such other tasks as
20 the Parties mutually agree or the Court orders the Settlement Administrator to perform. The
21 Settlement Administration Costs will not exceed \$8,000. Settlement Administration Costs will
22 be paid out of the Gross Settlement Amount.

23 JJ. “Settlement Administrator” refers to Phoenix Settlement Administrators.

24 KK. “Settlement Class” means all Class Members who have not submitted a timely
25 and complete Request for Exclusion.

26 LL. “Settlement Class Member” is a person who is a member of the Settlement
27 Class.

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1 MM. "Sub-Class" means all non-exempt employees who worked for Defendant in
2 California as porters or porter-housekeepers and worked graveyard or swing shifts for
3 Defendant at any time between November 26, 2015 and October 6, 2018, and includes those
4 individuals whose work originated in and was performed in a temporary position under the
5 auspices of a staffing company.

6 **III. BACKGROUND**

7 During the Class Period, Defendant operated a real estate investment and management
8 company that owns and manages apartments for rent, operates senior living communities, and
9 leases and manages both office and retail properties in California. Plaintiff contends that
10 during the Class Period, he and other non-exempt employees of Defendant were not provided
11 with compliant meal and rest breaks, were not paid for all of their overtime work at overtime
12 rates of pay, were not provided compliant wage statements, and were not paid for their split
13 shift pay. Defendant denies the alleged claims.

14 The Parties have undertaken significant investigation and informal discovery during
15 the prosecution of this Action. Such discovery and investigation include extensively
16 interviewing the Representative Plaintiff, Defendant's production and Plaintiff's counsel's
17 review of personnel records, policies, as well as time pay records for all Class Members during
18 the Class Period, and other detailed information relevant to the Class Members' claims.
19 Counsel for the Parties have investigated the law as applied to the facts discovered regarding
20 the alleged claims of the Class and potential defenses thereto, and the potential damages
21 claimed by the Class.

22 The Parties' attorneys have engaged in extensive discussions about the strengths and
23 weaknesses of the claims and defenses in the Action. On July 22, 2020 the Parties attended a
24 mediation before an experienced and well-regarded mediator, David Perrault, after which the
25 Parties' reached an agreement regarding the resolution of this Action which is embodied in
26 the terms of this Agreement.

27 Plaintiff and Class Counsel have concluded, after considering the sharply disputed
28 factual and legal issues involved in this Action, the risks attending further prosecution, and

1 the substantial benefits to be received pursuant to the compromise and settlement of the Action
2 as set forth in this Agreement, that this Settlement is in the best interests of the Representative
3 Plaintiff and the Settlement Class and is fair and reasonable.

4 This Settlement contemplates: (i) entry of an order preliminarily approving the
5 Settlement and approving certification of a provisional Class for settlement purposes only;;
6 (ii) dissemination of a notice to Class Members about the settlement; (iii) entry of a Final
7 Approval Order granting final approval of the Settlement; and (iv) entry of final judgment.

8 **IV. SETTLEMENT APPROVAL AND IMPLEMENTATION PROCEDURE**

9 **A. Preliminary Approval of Settlement**

10 Following the execution of this Stipulation by all Parties or at such other time specified
11 by the Court, Class Counsel will submit this Stipulation to the Court as part of Plaintiff's
12 motion for preliminary approval of the settlement. Plaintiff's motion will include such briefing
13 and evidence as may be required for the Court to determine that this Agreement is fair and
14 reasonable, as required by California Code of Civil Procedure section 382 and California Rule
15 of Court 3.769. Class Counsel will provide Defendant's counsel with the opportunity to
16 review and comment on all drafts of all papers to be filed in connection with the motion for
17 preliminary approval (notice of motion, memorandum of points and authorities and
18 declarations) before filing such motion with the Court. Plaintiff's motion for preliminary
19 approval will also include a proposed order that is mutually agreed-upon by the Parties.
20 Defendant shall not oppose Plaintiff's motion for preliminary approval of the settlement to
21 the extent it is consistent with the terms and conditions of this Agreement. Defendant may,
22 however, provide a written response to any characterization of the law or facts contained in
23 the motion for preliminary approval.

24 The Parties have agreed to the certification of the Class and Sub-Class for the sole
25 purposes of effectuating this Settlement. Should the Settlement be terminated for any reason,
26 or should the Settlement not be approved by the Court or the judgment not become final, the
27 fact that the Parties were willing to stipulate to class certification as part of the Settlement will
28 have no bearing on, and will not be admissible in connection with, the issue of whether a class

1 should be certified in a non-settlement context in this Action, and in any of those events,
2 Defendant expressly reserves the right to oppose class certification. Additionally, if the
3 Settlement does not become final, this Agreement and all negotiations, court orders, and
4 proceedings related thereto shall be without prejudice to the rights of all Parties hereto, and
5 evidence relating to the Agreement and all negotiations shall not be admissible in the Action
6 or otherwise. The parties further agree that if the Settlement does not become final, any monies
7 deposited with the Third Party Administrator will be promptly refunded to Defendant. The
8 Parties further agree that if, for any reason, the Settlement is not approved, the certification
9 for purposes of this Settlement will have no force or effect and will be immediately revoked.

10 **B. Cooperation**

11 The Parties agree to fully cooperate with each other to accomplish the terms of this
12 Agreement, including but not limited to, execution of such documents and to take such other
13 reasonably necessary actions to implement the terms of this Agreement. No party, nor any of
14 its attorneys or agents, shall solicit or encourage any Class Member to opt out of or object to
15 the Settlement.

16 **C. Notice of Settlement**

17 Within 10 days following the Court's order granting preliminary approval of the
18 Settlement, Defendant will provide the Settlement Administrator with the Class Data in an
19 electronic format acceptable to the Settlement Administrator. At the same time, Defendant
20 will provide the Class Data, without Class Member names, contact information and social
21 security numbers, to Class Counsel. This information will remain confidential and will not be
22 disclosed to anyone, except as required to applicable taxing authorities, pursuant to
23 Defendant's express written authorization, by order of the Court, or as otherwise provided for
24 in this Agreement.

25 Using the Class Data, the Settlement Administrator will: (1) confirm the number of
26 Class Members and Qualifying Workweeks, (2) finalize and print the Notice of Settlement;
27 (3) check all addresses against the National Change of Address database; and (4) within ten
28 (10) calendar days of receiving the Class Data, send to each Class Member via First-Class

1 United States mail an English and Spanish version of the Notice of Settlement to the most
2 recent address known for each Class Member.

3 **D. Re-Sending Class Notices**

4 In the event that Defendant's Counsel or Class Counsel becomes aware of new
5 addresses for any Class Member, prior to the filing of the motion for final approval, such
6 information must immediately be communicated to the Settlement Administrator. The
7 Settlement Administrator will then re-send a Notice of Settlement to the Class Member(s) at
8 the new address.

9 For any Notice of Settlement that is returned as undeliverable, the Settlement
10 Administrator will perform a utility database search or other skip trace. The returned Notices
11 of Settlement will be re-mailed to the new addresses obtained for such Class Members. Such
12 searching and re-mailing will be completed within ten (10) calendar days of the date that
13 Notices of Settlement were originally returned as undeliverable.

14 **E. Requests for Exclusion (Opt-Outs)**

15 Any Class Member who wishes to be excluded from the Settlement must notify the
16 Settlement Administrator in writing of his or her desire to be excluded by mailing his or her
17 own Request for Exclusion to the Settlement Administrator that clearly expresses such desire
18 and is signed by such Class Member. Any such Request for Exclusion shall include the Class
19 Member's name (and former names, if any), current address, telephone number, and last four
20 numbers of the Class Member's social security number. To be valid, the Request for Exclusion
21 must be postmarked by no later than the Response Deadline.

22 Any Class Member who submits a valid and timely Request for Exclusion shall be
23 barred from participating in this Settlement, shall be barred from objecting to this Settlement,
24 and shall receive no benefit from this Settlement.

25 Any Class Member who fails to submit a timely, complete, and valid Request for
26 Exclusion shall be barred from opting out of the Settlement. It shall be conclusively presumed
27 that, if a Request for Exclusion is not postmarked on or before the expiration of the period to
28 submit a Request for Exclusion, the Class Member did not make the request in a timely

1 manner. Under no circumstances shall the Settlement Administrator have the authority to
2 extend the deadline for Class Members to file a Request for Exclusion.

3 Unless a Class Member submits a timely, complete, and valid Request for Exclusion,
4 he or she shall be deemed a Settlement Class Member and shall be bound by the terms and
5 conditions of this Agreement. The releases provided for in this Agreement shall conclusively
6 preclude any Settlement Class Member from asserting any of the Released Claims against any
7 of the Released Parties in any judicial, administrative, or arbitral forum.

8 The Settlement Administrator shall promptly provide Class Counsel and Defendant's
9 Counsel with copies of all Requests for Exclusion that it receives.

10 **F. Declaration of Compliance**

11 At the time determined by Class Counsel, the Settlement Administrator shall provide
12 Class Counsel and Defendant's Counsel with a declaration attesting to completion of the
13 notice process set forth in this Section IV, including the number of notices sent and returned,
14 an explanation of efforts to resend undeliverable notices, and copies of all Requests for
15 Exclusion, which declaration shall be filed with the Court by Class Counsel along with their
16 papers requesting final approval of the Settlement.

17 **G. Sufficient Notice**

18 Compliance with the procedures described in this Section IV shall constitute due and
19 sufficient notice to Class Members of this Settlement and of the Final Fairness and Approval
20 Hearing, shall satisfy the requirements of due process, and nothing else shall be required of
21 the Representative Plaintiff, Class Counsel, Defendant, Defendant's Counsel, or the
22 Settlement Administrator to provide notice of the Settlement and the Final Fairness and
23 Approval Hearing.

24 **H. Objections to Settlement**

25 **1. Procedure and Deadline for Objections**

26 In order for any Class Member to object to the Settlement, he or she must send to the
27 Settlement Administrator, postmarked no later than the Response Deadline, a Notice of
28 Objection, signed by the objecting Class Member or his or her attorney, along with all

1 supporting papers (if any). The date the signed Notice of Objection was postmarked shall be
2 conclusively determined according to the records of the Settlement Administrator. The
3 Settlement Administrator shall send any Notices of Objections it receives to Defense Counsel
4 and Class Counsel within three (3) business days of receipt. The Court retains final authority
5 with respect to the consideration and admissibility of any Notice of Objection.

6 A Class Member's Notice of Objection will not be valid if the Class Member also
7 submits a valid and timely Request for Exclusion. A Class Member who does not submit a
8 valid and timely Request for Exclusion and who objects to the Settlement will still be
9 considered a Settlement Class Member.

10 **2. Responses to Objections**

11 Class Counsel and Defendant's Counsel shall file any written objections from Class
12 Members submitted to the Settlement Administrator, and Class Counsel's and Defendant's
13 Counsel's responses to such objections, at least five (5) court days before the Final Fairness
14 and Approval Hearing.

15 **I. Defendant's Right to Rescind**

16 If five percent (5%) or more of the Class Members submit timely and valid Requests
17 for Exclusion, Defendant may, at its option, rescind the Settlement. In that event, all actions
18 taken in furtherance of the Settlement will be null and void. Defendant must exercise this
19 right of rescission, in a writing to Class Counsel, within fourteen (14) days following
20 Defendant's Counsel's receipt of information from the Settlement Administrator indicating
21 that the number of valid Requests for Exclusion exceed this limit. If Defendant exercises this
22 right of rescission, Defendant must pay the all expenses incurred by the Settlement
23 Administrator as of the date of Defendant's notice of rescission.

24 **J. Plaintiff's Right to Rescind**

25 If, as reflected in the Class Data delivered to the Settlement Administrator, the total
26 number of Class Member Qualifying Workweeks exceeds 33,000, as of the date that
27 Defendant is required to provide the Class Data, Plaintiff may, at its option, rescind the
28 Settlement. In that event, all actions taken in furtherance of the Settlement will be null and

1 void. Plaintiff must exercise this right of rescission, in a writing to Class Counsel, within
2 fourteen (14) days following Plaintiff Counsel's receipt of information from the Settlement
3 Administrator indicating that the number of Class Member Qualifying Workweeks exceeds
4 33,000.

5 **K. Final Fairness and Approval Hearing**

6 On or before the date set by the Court, Class Counsel will file a motion for final
7 approval of this Settlement pursuant to California Rule of Court 3.769. Class Counsel will
8 provide Defendant's counsel with the opportunity to review and comment on drafts of all
9 papers to be filed in connection with the motion for final approval (notice of motion,
10 memorandum of points and authorities and declarations) before filing such motion with the
11 Court. Plaintiffs' motion for final approval will also include a proposed order that is mutually
12 agreed-upon by the Parties. Defendant shall not oppose Class Counsel's motion for final
13 approval of the settlement to the extent it is consistent with the terms and conditions of this
14 Agreement. Defendant may, however, provide a written response to any characterization of
15 the law or facts contained in the motion for final approval.

16 On the date set by the Court, the Final Fairness and Approval Hearing shall be held
17 before the Court in order to: (1) determine whether the Court should give this Settlement final
18 approval; (2) determine whether Class Counsel's application for attorneys' fees and costs, and
19 request for the Service and Release Awards to the Representative Plaintiff, should be granted;
20 (3) determine whether the Court should approve the payment of fees to the Settlement
21 Administrator and the PAGA Settlement Amount and (4) consider any timely Objections to
22 Settlement, including Class Counsel's and Defendant's Counsel's responses thereto. Upon
23 final approval, the Court shall enter a Final Approval Order (in a form submitted by Class
24 Counsel and approved by Defendant's Counsel) which has the effect of adjudicating all claims
25 set forth in the Complaint and implementing the release of Released Claims, as set forth in
26 this Agreement. The Final Approval Order will be posted on the Settlement Administrator's
27 website. The posting of the Final Approval Order on the Settlement Administrator's website
28 will constitute notice of entry of the judgment, as required by California Rule of Court

1 3.771(b).

2 **L. Settlement Payments to Settlement Class Members**

3 **1. Calculation of Settlement Payments.**

4 The Net Settlement Amount shall be divided among and distributed to individual
5 Settlement Class Members using the following formula: Defendant will determine the amount
6 of each participating Settlement Class Member's "Qualifying Workweeks" (as that term is
7 defined in Section II herein). Twenty-five percent (25%) of the Net Settlement Amount shall
8 be allocated to the Sub-Class. That amount shall be allocated to the Sub-Class Members using
9 the following formula:

10 **(Settlement Class Member's Qualifying Workweeks When they Worked**
11 **as a Sub-Class Member ÷ All Workweeks Worked by Sub-Class Members)**
12 **x 25% of Net Settlement Amount**

13 The remaining seventy-five percent (75%) of the Net Settlement Amount shall be allocated to
14 all of the Class Members, including those who worked as Sub-Class Member during the
15 Settlement Class Period, using the following formula:

16 **(Settlement Class Member's Qualifying Workweeks ÷ All Qualifying**
17 **Workweeks) x 75% of Net Settlement Amount**

18 The individual settlement payments to Class Members shall exclude those workweeks
19 when Class Members worked in a Sub-Class position.

20 The Settlement Administrator shall have the authority and obligation to make
21 payments, credits, and disbursements, including payments and credits in the manner set forth
22 herein, to Settlement Class Members calculated in accordance with the methodology set out
23 in this Agreement and orders of the Court.

24 The Parties acknowledge and agree that the formula used to calculate individual
25 settlement payments does not imply that all the elements of damages alleged in the Action are
26 not being considered. The above formula was devised as a practical and logistical tool to
27 simplify the settlement process.

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2. Inclusion of Qualifying Workweeks and Estimated Settlement Payment Information in Notice of Settlement

The Notice of Settlement sent to each Class Member shall state the amount of the Class Member’s Qualifying Workweeks as a Class Member and as a Sub-Class Member, as reflected in the Class Data. Each Notice of Settlement shall also include an estimate of the Class Member’s settlement payment as a member of the Settlement Class and as a member of the Sub-Class, as calculated by the Settlement Administrator. The estimated settlement payment included in the Notice of Settlement will be calculated by assuming that no Class Members will be excluded from the Settlement.

3. Eligibility

Settlement Class Members (but not Class Members who exclude themselves of the Settlement), will receive a settlement payment from the Net Settlement Fund, distributed through the Settlement Administrator.

Should any question arise regarding the determination of eligibility for, or the amounts of, any settlement payments under the terms of this Agreement, Class Counsel and Defendant’s Counsel shall meet and confer in an attempt to reach agreement and, if they are unable to do so, the issue shall be submitted to the Court for determination on an expedited basis, through the submission of letter briefs of no more than three pages.

4. Disputes about Qualifying Workweeks

If a Class Member disagrees with the number of Qualifying Workweeks, as stated in his or her Notice of Settlement, he or she may dispute that figure by informing the Settlement Administrator of the number of Qualifying Workweeks he or she claims to have worked during the Class Period and provide any supporting documentation (such as, without limitation, payroll or time keeping records, and paycheck stubs) on or before the Response Deadline. If there is a dispute, the Settlement Administrator will consult with Class Counsel and Defendant’s Counsel to determine whether an adjustment is warranted. However, Defendant’s records shall be presumed to be accurate and the Settlement Administrator shall have the sole discretion to determine any such disputes. The Settlement Administrator shall

1 be obligated to resolve any disputes regarding the number of Qualifying Workweeks
2 submitted by a Class Member within ten (10) days.

3 **5. Allocation of Settlement Payments**

4 Payment to each Settlement Class Member shall be allocated as follows: one-third
5 shall be attributed to wages, to be reported on a W-2 form; one-third shall be reported as
6 penalties; and one-third shall be reported as interest. The amount of penalties and interest will
7 be reported on an IRS Form 1099.

8 **6. Payment of Payroll Taxes**

9 The amount paid to each Settlement Class Member attributable to wages shall be
10 subject to all applicable taxes and other withholdings and shall be net of the Settlement Class
11 Member's share of all federal, state, and local taxes and required withholdings, including
12 without limitation, FICA, Medicare tax, FUTA, and state unemployment taxes. The
13 Employer's Withholding Share shall be paid by Defendant separately and in addition to
14 Defendant's payment of the Gross Settlement Amount.

15 For each Settlement Class Member, the Settlement Administrator shall determine the
16 Employer's Withholding Share. Information related to the Employer's Withholding Share for
17 each Settlement Class Member shall be provided to Defendant by the Settlement
18 Administrator. If Defendant disagrees with the Settlement Administrator's determination of
19 the Employer's Withholding Share, it will communicate with and share information
20 reasonably necessary to reach a good faith determination of the correct Employer's
21 Withholding Share.

22 **7. Payments to Settlement Class Members**

23 Within ten (10) days of the Effective Date, the Settlement Administrator will make the
24 settlement payments to Settlement Class Members based on the payment formula set forth
25 herein.

26 **M. The Settlement Administrator**

27 The Settlement Administrator will perform the duties specified in this Agreement and
28 any other duties incidental to such obligations. The Settlement Administrator's duties shall

1 include, without limitation: establishing the QSF, preparing, translating and distributing the
2 Notice of Settlement; calculating and directing the disbursement of payments to Settlement
3 Class Members, Class Counsel, the Class Representative and the LWDA; calculating and
4 timely paying any and all payroll taxes from the wages portion of the Net Settlement Amount
5 to the appropriate tax authorities, as required under this Agreement and applicable law;
6 handling inquiries about the calculation of individual settlement payments; preparing and
7 filing any tax returns and information returns and any other filings required by any
8 governmental taxing authority or other governmental agency; providing weekly status reports
9 to the Parties' counsel; advising Defendant and Class Counsel of any Class Members who
10 submit Notices of Objections and/or Requests for Exclusion; providing a due diligence
11 declaration for submission to the Court prior to the final approval hearing; printing and
12 providing Settlement Class Members and Representative Plaintiffs with W-2 and 1099 forms
13 as required under this Agreement and applicable law; arranging for and remitting funds from
14 any uncashed settlement payment to the designated recipient, as determined by the Court; and
15 for such other tasks as the Parties mutually agree or the Court orders the Settlement
16 Administrator to perform.

17 The Settlement Administrator shall establish a settlement payment center address,
18 telephone number and email address to receive Class Members' inquiries about the Notice of
19 Settlement, requests to be excluded from the Settlement and settlement payments.

20 In addition, the Settlement Administrator shall establish a static website and, on the
21 website, post this stipulation, any preliminary approval order and the Final Approval Order
22 and Judgment. Posting of the Final Approval Order and Judgment on such website shall
23 constitute notice of judgment to the Settlement Class, as required by California Rule of Court
24 3.771(b).

25 The Parties confirm, and Class Counsel and Defendant's Counsel confirm that they do
26 not have any financial interest in the Settlement Administrator or otherwise have a relationship
27 with the Settlement Administrator that could create a conflict of interest.

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1 **N. Time for Payment by Defendant**

2 No later than five business days after the Effective Date, Defendant shall wire the
3 Gross Settlement Amount and Employer’s Withholding Share to the QSF. However,
4 Defendant may deposit the funds with the QSF as soon as the Court has granted preliminary
5 approval of the settlement. If Defendant fails to timely pay the amount required to satisfy its
6 payment obligation under this Stipulation within ten calendar days after the Effective Date,
7 the Representative Plaintiff, at his option, may either (1) declare the Settlement terminated, in
8 which case, the Parties agree that the Court will nullify the Final Approval Order and
9 Judgment and Plaintiff may continue to prosecute his claims against Defendant, or (2) seek to
10 collect all amounts owed under the Final Approval Order and Judgment against Defendant.

11 **O. Payments to Class Counsel, the Representative Plaintiff, the LWDA and**
12 **the Settlement Administrator**

13 Within ten (10) days of the Effective Date of this settlement, the Settlement
14 Administrator shall make payment from the QSF to: (1) Class Counsel, for Class Counsel’s
15 Attorneys’ Fees and Class Counsel’s Costs, as by the Court; (2) the Representative Plaintiff
16 for the Service and Release Award approved by the Court; (3) to the LWDA for the LWDA
17 Amount, as approved by the Court; and (4) to the Settlement Administrator for the Settlement
18 Administration Costs, as approved by the Court. These payments will be reported on an IRS
19 Form 1099.

20 **P. Un-cashed/Un-deposited Settlement Payment Checks**

21 If any Settlement Class Member’s settlement payment check has not been cashed or
22 deposited within sixty (60) days after disbursement, the Settlement Administrator shall
23 attempt to contact each individual to advise them to cash their checks, and to offer to replace
24 any checks reported as either lost or stolen. In attempting to contact such persons, the
25 Settlement Administrator will send notices (1) by mail to the individuals’ last known
26 addresses (as provided by Defendant) after first checking those addresses against the NCOA
27 database and skip tracing and (2) by telephoning or emailing such persons, in the event that
28 Defendant provides telephone numbers and/or email addresses for such persons.

1 If a Class Member's check is not cashed within 180 days, the check will be void and
2 a stop payment order may be placed on the check. In such event, the Settlement nevertheless
3 will be binding upon the Settlement Class Member. The funds represented by all uncashed
4 settlement checks will be transmitted by the Settlement Administrator.

5 **Q. Class Counsel Attorneys' Fees and Costs**

6 Defendant will not oppose Class Counsel's application for an award of attorneys' fees
7 of up to one hundred seventy-five thousand dollars (\$175,000), which is thirty-five percent
8 (35%) of the Gross Settlement Amount.

9 Defendant will not oppose Class Counsel's application for an award of their reasonable
10 and actual litigation expenses and costs.

11 Class Counsel's Attorney's Fees and Class Counsel's Costs, as awarded by the Court,
12 shall be paid from the Gross Settlement Amount.

13 To the extent the Court does not approve any or the entire amount of Class Counsel's
14 Attorney's Fees or Class Counsel's Costs, it shall not affect the terms of the Parties' settlement
15 and any such unapproved amounts shall remain part of the Gross Settlement Amount and shall
16 be distributed in accordance with the provisions of this Stipulation. Approval of the Settlement
17 by the Court shall not be contingent on approval of the amounts of Class Counsel's Attorney's
18 Fees or Class Counsel's Costs requested by Class Counsel.

19 Upon the payment of the Court-approved amount of Class Counsel's Attorneys' Fees
20 and Class Counsel's Costs, and except as otherwise provided by this Stipulation, Class
21 Counsel waives any claim to costs and attorneys' fees and expenses against Defendant arising
22 from or related to the Action, including but not limited to claims based on the California Labor
23 Code, the California Code of Civil Procedure, or any other statute or law. Provided, however,
24 nothing in this Agreement shall prevent Class Counsel from seeking additional fees for
25 enforcing the terms of this Stipulation.

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R. Services and Release Award to Representative Plaintiff

The Representative Plaintiff's Service and Release Award as approved by the Court, shall be paid from the Gross Settlement Amount.

The Representative Plaintiff shall be responsible for all portions of federal, state, and local tax liabilities that may result from the payment of the Service and Release Award and agrees that Defendant shall bear no responsibility for any such tax liabilities.

To the extent the Court does not approve any or all of the amount of the Service and Release Award sought by the Representative Plaintiff, any amounts not awarded by the Court will remain part of the Gross Settlement Amount and will be distributed in accordance with the terms of this Stipulation and the Parties agree that the settlement shall remain binding with such modification(s) and its terms will otherwise be unchanged.

S. Taxes

1. Withholding and Reporting Requirements

The Settlement Administrator shall be responsible for ensuring that all taxes required to be withheld from the wage portions of each Settlement Class Member's individual settlement payment, along with the Employer's Withholding Share, are timely paid to the appropriate tax authorities. The Settlement Administrator's responsibilities in this regard will also include the following: (a) filing all Federal, state, and local employment tax returns, tax withholding returns, and any other tax returns associated with the taxes, (b) timely and proper filing of all required Federal, state, and local information returns (e.g., 1099s, W-2s, etc.) with the appropriate taxing authorities, and (c) completion of any other steps necessary for compliance with any tax obligations of the settlement fund under Federal, state and/or local law. To verify the Settlement Administrator's compliance with the foregoing withholding and reporting requirements, as soon as administratively practicable, the Settlement Administrator shall furnish Class Counsel and Defendant's Counsel with copies of all filed tax returns and information returns (including all 1099 and W-2 information returns), and a final accounting

1 adequate to demonstrate full compliance with all tax withholding, payment and reporting
2 obligations.

3 **2. Circular 230 Disclaimer**

4 Each party to this Agreement (for purposes of this section, the “Acknowledging
5 Party”; and each party to this Agreement other than the Acknowledging Party, and “Other
6 Party”) acknowledges and agrees that: (1) no provision of this Agreement, and no written
7 communication or disclosure between or among the Parties or their attorneys and other
8 advisers, is or was intended to be, nor shall any such communication or disclosure constitute
9 or be construed or be relied upon as, tax advice within the meaning of United States Treasury
10 Department Circular 230 (31 CFR Part 10, as amended); (2) the Acknowledging Party (a) has
11 relied exclusively upon his, her, or its own, independent legal and tax advisers for advice
12 (including tax advice) in connection with this Agreement, (b) has not entered into this
13 Agreement based upon the recommendation of any other party or any attorney or advisor to
14 any other party, and (c) is not entitled to rely upon any communication or disclosure by any
15 attorney or adviser to any other party to avoid any tax penalty that may be imposed on the
16 Acknowledging Party; and (3) no attorney or adviser to any other party has imposed any
17 limitation that protects the confidentiality of any such attorney’s or adviser’s tax strategies
18 (regardless of whether such limitation is legally binding) upon disclosure by the
19 Acknowledging Party of the tax treatment or tax structure of any transaction, including any
20 transaction contemplated by this Agreement.

21 **V. LIMITATIONS ON USE OF THIS SETTLEMENT**

22 **A. No Admission of Liability**

23 Neither the acceptance nor the performance by Defendant of the terms of this
24 Stipulation nor any of the related negotiations or proceedings is or shall be claimed to be,
25 construed as, or deemed a precedent or an admission by Defendant of the truth or merit of any
26 allegations in the original Complaint, First Amended Complaint and/or Second Amended
27 Complaint, or that it has any liability to the Representative Plaintiff or the Class Members on
28 their claims. Defendant denies that it has engaged in any unlawful activity, has failed to

1 comply with the law in any respect, or has any liability to anyone under the claims asserted in
2 the Action. This Agreement is entered into solely for the purpose of compromising highly
3 disputed claims.

4 **B. Nullification**

5 In the event that the Court does not approve the Settlement in accordance with this
6 Stipulation, the Parties agree to negotiate in good faith to resolve any issues raised by the
7 Court and amend this Stipulation to obtain Court approval of the Settlement. However, if,
8 after a good faith effort to resolve any issues, the Court for any reason does not approve this
9 Settlement, this Stipulation shall be null and void and all Parties to this Settlement shall stand
10 in the same position, without prejudice, as if the Settlement had been neither entered into nor
11 filed with the Court.

12 **VI. RELEASE**

13 It is the desire of the Representative Plaintiff, Class Members (except those who
14 exclude themselves from the Settlement), and Defendant to fully, finally, and forever settle,
15 compromise, and discharge the Released Claims. Upon entry of the Final Approval Order and
16 Defendant's payment of the Gross Settlement Amount and Employer's Withholding Share,
17 and except as to such rights or claims as may be created by this Settlement Agreement, the
18 Settlement Class Members, on behalf of themselves, and each of their heirs, representatives,
19 successors, assigns, and attorneys, shall be deemed to have, and by operation of the final
20 judgment shall have, fully released and discharged the Released Parties from any and all
21 Released Claims that accrued during the Class Period.

22 **VII. RELEASES AND COVENANANTS BY THE REPRESENTATIVE**
23 **PLAINTIFF**

24 Upon entry of the Final Approval Order and Defendant's payment of the Gross
25 Settlement Amount and Employer's Withholding Share, and except as to such rights or claims
26 as may be created by this Settlement Agreement, the Representative Plaintiff fully releases
27 and forever discharges Defendant and the Released Parties and each of their respective past,
28 present and/or future officers, directors, members, managers, employees, agents,

1 representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent
2 companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint
3 venturers, and attorneys from all claims arising during the Class Period under state, federal
4 and local law arising out of the allegations in the administrative and civil complaints in this
5 action, and that reasonably arise or could have arisen out of the facts alleged in the case as to
6 all Class Members, including claims arising under California Labor Code sections 200, 201,
7 202, 203, 226, 226.3, 226.7, 510, 1174, 1194, 1197.1, 2698, 2699, 2699.3, 2699.5, 2751,
8 claims arising under California Wage Orders, claims arising under Business and Professions
9 Code section 17200, and all class claims and representative claims and aggrieved employee
10 claims, including, but not limited to, any claims for meal or rest periods, or meal or rest period
11 premiums, claims for unpaid wages, overtime and/or minimum wages, claims related to
12 payment of wages at separation, termination or furlough, claims arising from or related to any
13 failure to provide accurate and itemized paystubs/ claims related to unfair competition, unfair
14 business practices, and/or fraudulent business practices; claims for PAGA penalties, waiting
15 time penalties, civil penalties, and/or penalties of any nature; claims for interest, fees, costs;
16 claims for failure to pay benefits, bonuses, incentive payments of any kind, and lost paid time
17 off and or sick leave benefits. Provided, however, this release shall not include any claims for
18 workers' compensation benefits.

19 The Representative Plaintiff hereby agrees that, notwithstanding section 1542 of the
20 California Civil Code ("Section 1542"), all claims that the Representative Plaintiff may have,
21 known or unknown, suspected or unsuspected, are hereby released as of the Effective Date.
22 Section 1542 provides:

23 **"A general release does not extend to claims that the creditor or releasing**
24 **party does not know or suspect to exist in his or her favor at the time of**
25 **executing the release and that, if known by him or her, would have**
26 **materially affected his or her settlement with the debtor or released**
27 **party."**

28 The Representative Plaintiff expressly waives the provisions of Section 1542 with full
knowledge and with the specific intent to release all known or unknown, suspected or
unsuspected, claims arising on or before the Effective Date of the Settlement, and therefore

1 specifically waives the provisions of any statute, rule, decision, or other source of law of the
2 United States or of any state of the United States or any subdivision of a state which prevents
3 release of unknown claims.

4 **VIII. MISCELLANEOUS PROVISIONS**

5 **A. Amendments**

6 This Settlement Agreement may only be modified or changed by a writing signed by
7 the Parties hereto or by their counsel.

8 **B. Integrated Agreement**

9 After this Stipulation is signed and delivered by all Parties to the Action and their
10 counsel, this Stipulation and its exhibits will constitute the entire agreement between the
11 Parties to the Action relating to the Settlement, and it will then be deemed that no oral
12 representations, warranties, covenants, or inducements have been made to any Party
13 concerning this Stipulation or its exhibits other than the representations, warranties,
14 covenants, and inducements expressly stated in this Stipulation and its exhibits.

15 **C. No Inducements**

16 The Parties acknowledge that they are entering into this Agreement as a free and
17 voluntary act without duress or undue pressure or influence of any kind or nature whatsoever
18 and that neither Plaintiff nor Defendant have relied on any promises, representations, or
19 warranties regarding the subject matter hereof other than as set forth in this Stipulation.

20 **D. No Prior Assignment**

21 The Parties hereto represent, covenant, and warrant that they have not directly or
22 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
23 any person or entity any portion of any liability, claim, demand, action, cause of action, or
24 rights herein released and discharged except as set forth herein.

25 **E. No Retaliation or Advice**

26 Defendant agrees not to retaliate against any Class Member, and Defendant will not
27 induce or offer any advice to any current or former employee to opt out of, or object to, the
28 Settlement.

1 **F. Attorney’s Fees**

2 To the extent that any Party institutes any legal action, arbitration, or other proceeding
3 to enforce the terms of the Settlement, the prevailing Party will be entitled to recover their
4 reasonable attorneys’ fees and costs from the other Party or Parties.

5 **G. Applicable Law**

6 All terms and conditions of this Stipulation and its exhibits will be governed by and
7 interpreted according to the laws of the State of California, without giving effect to any
8 conflict of law principles or choice of law principles.

9 **H. Entry of Judgment Pursuant to Terms of Settlement**

10 The Parties agree that upon the Settlement of this case, the Court may enter judgment
11 pursuant to the terms of this Settlement and specifying the Gross Settlement Amount. The
12 Court will retain jurisdiction over the Parties to enforce the Settlement until performance in
13 full of the terms of the Settlement.

14 **I. Notices**

15 All notices, requests, demands and other communications required or permitted to be
16 given pursuant to this Agreement shall be in writing, and shall be delivered personally or by
17 first class mail to Class Counsel or Defendant’s Counsel at their respective addresses as set
18 forth at the beginning of this Agreement or at any new address as to which counsel have
19 advised the Court and the other Parties.

20 **J. Binding on Successors**

21 This Agreement shall be binding and shall inure to the benefit of the Parties to the
22 Action and their respective successors, assigns, executors, administrators, heirs, and legal
23 representatives.

24 **K. Counterparts**

25 This Stipulation, and any amendments hereto, may be executed in any number of
26 counterparts, each of which when executed and delivered shall be deemed to be an original
27 and all of which taken together shall constitute the same instrument.

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1 **L. Warranties and Representations**

2 With respect to themselves, each of the Parties to this Action and or their agent or
3 counsel represents, covenants, and warrants that they have full power and authority to enter
4 into and consummate all transactions contemplated by this Stipulation and have duly
5 authorized the execution, delivery, and performance of this Stipulation.

6 **M. Representation by Counsel**

7 The Parties to this Action acknowledge that they have been represented by counsel
8 throughout all negotiations that preceded the execution of this Stipulation, and that this
9 Stipulation has been executed with the consent and advice of counsel.

10 **N. Signatories**

11 It is agreed that because the Class Members are so numerous, it is impossible or
12 impractical to have each Class Member execute this Stipulation. The Notice of Settlement
13 will advise all Class Members of the binding nature of the release, and the release shall have
14 the same force and effect as if this Stipulation was executed by each member of the Settlement
15 Class.

16 BY SIGNING BELOW, THE PARTIES AGREE TO THIS STIPULATION AND ITS
17 TERMS:

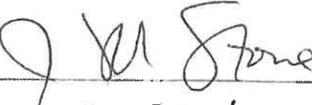
18 Dated: 09/16, 2020



Plaintiff Sean Otis

22 Dated: 9/17, 2020

RAY STONE INCORPORATED

By: 

Its: President

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Approved as to form:

Dated: 9/17, 2020

COOK BROWN LLP

By: 
Barbara A. Cotter
Attorneys for Defendant Ray Stone Incorporated

Dated: 9/17, 2020

GUNDZIK GUNDZIK HEEGER LLP


Aaron C. Gundzik
Attorneys for Plaintiff Sean Otis, individually and on
behalf of all others similarly situated

Dated: 9/17, 2020

SHIMODA LAW CORP

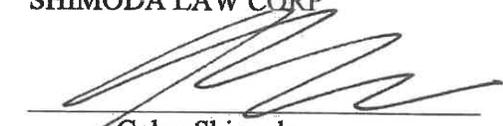

Galen Shimoda
Attorneys for Plaintiff Sean Otis, individually and on
behalf of all others similarly situated

Exhibit A

If you have worked for Ray Stone Incorporated, you may be entitled to receive money from a class action settlement.

*The Sacramento County Superior Court authorized this notice.
This is not a solicitation from a lawyer.*

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.

You are receiving this Notice because the Court has preliminarily approved a proposed settlement in a class action filed on behalf of all non-exempt employees of Defendant Ray Stone Incorporated (“Defendant” or “Ray Stone”) who worked for Defendant in California from November 26, 2015 through [earlier of preliminary approval or November 1, 2020]. A hearing to determine whether the settlement should receive the Court’s final approval will be held on _____ at _____.m. in Department ___ of the Sacramento County Superior Court, which is located at 720 9th St, Sacramento, CA 95814.

This Notice explains the proposed settlement and provides an estimate of how much money you will receive as a settlement payment if you do not exclude yourself from the settlement. If you do not want to be part of the settlement class, then you must submit a Request for Exclusion (described in section 9, below) no later than [45 days from mailing] otherwise you will be bound by the terms of the settlement, including the release of certain claims that you may have against Defendant and the Released Parties, as described in section 8 of this Notice.

1. PURPOSE OF THIS NOTICE

The Court has ordered that this Notice be sent to you because you have been identified as a member of the class by Defendant’s records. The purpose of this notice is to provide you with information about the lawsuit and the proposed settlement and to advise you of your options.

2. PERSON ELIGIBLE TO RECEIVE A SETTLEMENT PAYMENT

The people eligible to receive a settlement payment are all individuals who worked for Defendant in California as non-exempt employees at any time from November 26, 2015 through [earlier of preliminary approval or November 1, 2020] and includes those individuals whose work originated in and was performed in a temporary position under the auspices of a staffing company. You are receiving this notice because, according to Defendant’s records, you are eligible to participate in the settlement.

3. DESCRIPTION OF THE ACTION

A former employee of Ray Stone Incorporated filed a class action against it in the Sacramento Superior Court. The case is called *Otis v Ray Stone Incorporated*, Case No. 34-2019-00269952 (the “Action”). The Action alleges that Plaintiff and other non-exempt employees of Defendant were not provided with compliant meal and rest breaks, were not paid for all of their overtime work at overtime rates of pay, were not provided compliant wage statements, and were not paid for their split shift pay. Based on these facts and others, Plaintiff’s Second Amended Complaint alleges causes of action for: (1) failure to provide meal and rest breaks; (2) failure to pay overtime; (3) unlawful failure to pay split shift pay; (4) failure to provide accurate wage statements; (5) violation of the Unfair Practices Act; (6) recovery of civil penalties under the California Labor Code Private Attorneys’ General Act (“PAGA”), California Labor Code sections 2698-2699.5; and (7) recovery of derivative penalties.

Defendant denies all of Plaintiff’s allegations and denies any wrongdoing. Among other things, Defendant contends that all employees have been properly compensated and that Defendant complied with all applicable California labor laws.

The Court has made no ruling on the merits of the alleged claims or the defenses asserted by Defendant. The Court has preliminarily approved the proposed settlement. The Court will decide whether to give final approval to the settlement at a hearing scheduled for _____, 20__ at _____.m. (the “Final Approval Hearing”).

FOR MORE INFORMATION CALL 1-800-_____.

4. WHO ARE THE ATTORNEYS REPRESENTING THE PARTIES?

Attorneys representing Plaintiff and the Class (“Class Counsel”) are:

Aaron C. Gundzik Rebecca Gundzik Gundzik Gundzik Heeger LLP 14011 Ventura Blvd., Suite 206E Sherman Oaks, CA 91423 Telephone: (818) 290-7461 Facsimile: (818) 918-2316	Galen Shimoda Shimoda Law Corp. 9401 E. Stockton Blvd., Suite 200 Elk Grove, CA 95624 Telephone: (916) 525-0716 Facsimile: (916) 760-3733
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Attorneys representing Defendant are:

Barbara A. Cotter Cook Brown LLP 2407 J Street, 2nd Floor Sacramento, Calif. 95816 (916) 442-3100	
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5. THE TERMS OF THE PROPOSED SETTLEMENT

The following is a summary of the settlement. The specific and complete terms of the proposed Settlement are stated in the Stipulation of Class Action Settlement (“Settlement Agreement”), a copy of which is filed with the Court. You can obtain a copy of the Settlement Agreement from Class Counsel (see contact information in Section 4 above) or review it on the following website: www._____.

Defendant has agreed to pay \$500,000 to settle any and all obligations for the claims alleged in the lawsuit. This amount is called the Gross Settlement Amount. As discussed below, the Gross Settlement Amount will be used to cover all payments to the settlement class, settlement administration costs, attorneys’ fees and costs, a service and release awards to the Plaintiff, and funds owed to the state of California in settlement of penalties. All of these payments will be deducted from the Gross Settlement Amount. The remaining amount (called the Net Settlement Amount) will be distributed to class members who do not timely submit Requests for Exclusion, as discussed below.

(a) Attorneys’ Fees and Costs: Class Counsel has worked on this matter without compensation and have advanced funds to pay for expenses necessary to prosecute the Action. Accordingly, under the settlement, Class Counsel may request an amount not to exceed \$175,000 to compensate them for their work on the case, plus their reasonable and actual costs and expenses incurred in the litigation. Subject to court approval, the attorneys’ fees and costs will be deducted from the Gross Settlement Amount.

(b) Service and Release Awards: The Plaintiff is requesting a service and release award of \$15,000, in addition to the amounts he will receive as a member of the class and sub-class, to compensate him for undergoing the burden and expense of prosecuting the action and for the broader release of claims he is required to provide to Defendant. Subject to court approval, the service and release awards will be deducted from the Gross Settlement Amount.

(c) Settlement Administration Costs: The Settlement Administrator, _____, has advised the parties that the settlement administration costs will not exceed \$_____. Subject to court approval, the settlement administration costs will be deducted from the Gross Settlement Amount.

(d) Payment to State of California: A total of \$20,000 of the Gross Settlement Amount will be allocated to settle allegations that Defendant owes penalties to the state for alleged violations of the California Labor Code. Of this amount, \$15,000 (75%) will be paid to the California Labor & Workforce Development Agency (“LWDA”). Subject to court approval, the \$15,000 payment to the LWDA will also be deducted from the Gross Settlement Amount. The other 25%, which is \$5,000, will be distributed to class members as part of the Net Settlement Amount discussed below.

FOR MORE INFORMATION CALL 1-800-_____.

(e) **Payments to Settlement Class Members:** The remainder of the Gross Settlement Amount (called the Net Settlement Amount) will be distributed to class members who do not exclude themselves from the settlement (called Settlement Class Members). Twenty-five percent (25%) of the Net Settlement Amount will be allocated to those class members who worked for Defendant in California as porters or porter-housekeepers and worked graveyard or swing shifts for Defendant at any time between November 26, 2015 and October 6, 2018 (the “Sub-Class”). Seventy-five percent (75%) of the Net Settlement Amount will be allocated to all of the Class Members, including those Class Members who are also Sub-Class Members. The amount of each Sub-Class Member’s share of the Net Settlement Amount will be calculated by dividing the total number of qualifying workweeks worked by the Sub-Class Member during the Class Period by the total number of qualifying workweeks worked by all of the Sub-Class Members during the Class Period and multiplying that fraction by twenty-five (25%) of the Net Settlement Amount. The amount of each Class Member’s share of the Net Settlement Amount will be calculated by dividing the total number of qualifying workweeks worked by the Class Member during the Class Period by the total number of qualifying workweeks worked by all of the Class Members during the Class Period and multiplying that fraction by seventy-five percent (75%) of the Net Settlement Amount. If you worked as a member of the Sub-Class, the workweeks that you worked as a Sub-Class member will not be included in the workweeks counted as workweeks you worked as a Class Member. A qualifying workweek is a full or partial week that a class member worked for Defendant during the Class Period, and includes those weeks when Class Members performed work which originated in and was performed in a temporary position under the auspices of a staffing company.

6. WHAT YOU WILL RECEIVE UNDER THE SETTLEMENT

According to Defendant’s records, you worked a total of __ qualifying workweeks during the Class Period as a Class Member, but not as a Sub-Class Member. According to Defendant’s records, you worked a total of __ qualifying workweeks during the Class Period as a Sub-Class Member. Under the settlement, you will receive approximately \$_____. This amount may increase or decrease based on various factors, including the number of class members who submit Requests for Exclusion, the amounts approved by the Court for attorneys’ fees and costs, settlement administration costs, the service and release award to Plaintiff, payment to the LWDA, and disputes by other class members and sub-class members regarding their qualifying workweeks during the Class Period.

To receive your settlement payment, you do not need to do anything. You will receive a settlement payment unless you exclude yourself from the settlement.

7. PAYMENT SCHEDULE

The Settlement Administrator will send out settlement checks to class members after the settlement is finally approved by the Court. You will have 180 days after the Settlement Administrator mails your settlement check to cash it; otherwise it will be voided and the amount of your settlement payment will be sent to the California State Controller as unclaimed property in your name and you will need to contact that agency to obtain your funds. For tax purposes, one-third of your settlement payment shall be attributed to wages and reported on a W-2 form; one-third will be attributed to interest and one-third will be attributed to penalties. The amount of interest and penalties will be reported on an IRS Form 1099. Nothing in this Notice should be construed as providing you with tax advice. You should consult with your tax advisor concerning the tax consequences of the payment you receive.

8. RELEASE OF CLAIMS

Unless you submit a valid Request for Exclusion (described below in section 9), you will release Ray Stone, Renoir Staffing, LLC, Renoir Staffing Services, Inc., and Renoir Staffing, Inc. and each of their respective past, present and/or future officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, joint venturers, affiliates and attorneys from all claims arising during the Class Period under state, federal and local law arising out of the allegations in the administrative and civil complaints in this action, and that reasonably arise or could have arisen out of the facts alleged in the case as to all Class Members, including claims arising under California Labor Code sections 200, 201, 202, 203, 226, 226.3, 226.7, 510, 1174, 1194, 1197.1, 2698, 2699, 2699.3, 2699.5, 2751, claims arising under California Wage Orders, claims arising under Business and Professions Code section 17200, and all class claims and representative claims and aggrieved employee claims, including, but not limited to, any claims for meal or rest periods, or meal or rest period premiums, claims for unpaid wages, overtime and/or minimum wages, claims related to payment of wages at separation, termination or furlough, claims arising from or related to any failure to provide accurate and itemized paystubs/ claims related to unfair competition, unfair business practices, and/or fraudulent business practices; claims for

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PAGA penalties, waiting time penalties, civil penalties, and/or penalties of any nature; claims for interest, fees, costs; claims for failure to pay benefits, bonuses, incentive payments of any kind, and lost paid time off and or sick leave benefits. The term “affiliates” includes any and all entities, facilities and/ or real properties where Class Members were assigned when working for Defendant, including all senior living and multi-family complexes managed and/or owned in full or in part by Ray Stone, Inc. It further includes all temporary agencies or staffing agencies which contracted with Defendant to place class members, process their payroll and/or which jointly employed Class Members during the Class Period. The release only effects claims that arose at any time between November 26, 2015 through **[earlier of preliminary approval or November 1, 2020]**.

9. YOUR OPTIONS

As a member of the settlement class you have four options. Each option will affect your rights, which you should understand before making your decision. Your rights regarding each option, and the procedure you must follow to select each option, are explained below:

(a) You Can Do Nothing.

If you do nothing, you will remain a member of the settlement class and will receive a settlement payment. You will also be bound by the release of claims set forth in Section 8 above. The payment will remain valid and negotiable for one hundred eighty (180) days from the date of the issuance. This deadline to cash the payment check shall not be extended for you absent Court Order.

(b) You Can Contest the Calculation of Your Settlement Payment as Stated in this Notice.

You can contest the number of qualifying workweeks attributed to you in Section 6 above. To do so, you must provide the Settlement Administrator with a written explanation of your position. The statement must also include your full name, current address and telephone number, and must identify this case (*Otis v Ray Stone Incorporated*, Case No. 34-2019-00269952). You must provide written documentation supporting the number of workweeks you believe that you worked; otherwise, the number listed above will be presumed correct. You must postmark your written statement no later than **[45 days from mailing]**. The Settlement Administrator will consider the documentation you submit and will communicate with you and the parties as necessary regarding the dispute to determine whether an adjustment is warranted before making a final determination regarding your settlement payment. The Settlement Administrator will mail you its final determination.

(c) You Can Exclude Yourself from the Settlement Class.

If you do not want to remain a member of the settlement class, you can request exclusion (i.e., opt out) by sending the Settlement Administrator a written Request for Exclusion at the address specified in Section 11 below. The deadline to postmark a Request for Exclusion is **[45 days from mailing]**. A Request for Exclusion is a written statement that unambiguously requests exclusion from the settlement class. The Request for Exclusion must include the case number (*Otis v Ray Stone Incorporated*, Case No. 34-2019-00269952), your name, current address and telephone number, and the last four digits of your social security number (for verification purposes). You must also sign the Request for Exclusion. You should keep a copy of your Request for Exclusion. Moreover, to demonstrate receipt by the Settlement Administrator, you may elect to send your Request for Exclusion via certified mail. Requests for Exclusion that do not include all required information, or that are not postmarked on or before **[45 days from mailing]**, will not be valid.

If you submit a valid and timely Request for Exclusion, you will not be bound by the settlement or the release of claims in Section 8 above; however, you will not receive any money under the settlement. You will also be barred from objecting to this settlement. By opting out of the settlement class, you will retain whatever rights or claims you may have against Defendant.

If you do not submit a timely and valid Request for Exclusion from the settlement class by the deadline specified above, then you will be bound by all terms and conditions of the settlement, including the Release of Claims, if it is approved by the Court and by the judgment, and you will receive a settlement payment.

(d) You Can Object to the Settlement.

If you do not submit a Request for Exclusion from the settlement, you may object to the settlement by sending your written objections to the Settlement Administrator at the address specified in Section 11 below. The deadline to postmark your objections is **[45 days from mailing]**. Only class members who have not requested exclusion may object to the settlement.

FOR MORE INFORMATION CALL 1-800-_____.

Your objection must state the basis of your objection and include any papers and briefs in support of your position. Your objection must be signed and must contain your current address and telephone number (or that of your attorney) and refer to this case (*Otis v Ray Stone Incorporated*, Case No. 34-2019-00269952).

If you object to the settlement and if the Court approves the settlement notwithstanding your objections, you will be bound by the terms of the settlement and be deemed to have released all of the Released Claims as set forth in Section 8 above, and you will not be permitted to file a Request for Exclusion.

10. FINAL APPROVAL HEARING ON PROPOSED SETTLEMENT

The Final Approval Hearing on the fairness and adequacy of the proposed settlement, the plan of distribution, the service and release awards to the Plaintiff, and Class Counsel’s request for attorneys’ fees and costs, and other issues will be held on _____, 20__ at __ __.m., in Department _____ of the Sacramento County Superior Court, 720 9th St, Sacramento, CA 95814. The Final Approval Hearing may be continued to another date without further notice. If you plan to attend the Final Approval Hearing, it is recommended that you contact the Settlement Administrator to confirm the date and time.

11. NON-RETALIATION

Defendant will not retaliate or take any adverse action against a class member for participating in the settlement.

12. ADDITIONAL INFORMATION AND COURTHOUSE SOCIAL DISTANCING INFORMATION.

This Notice only summarizes the lawsuit and settlement. For more information, you may inspect the Court file at the Sacramento County Superior Court, 720 9th St, Sacramento, CA 95814, **subject to the social distancing procedures in place at the Courthouse**. You may also review the settlement agreement and other documents on-line at www.____. or you may contact the Settlement Administrator as follows:

[_____]
Telephone: _____
Facsimile: _____
Email: _____
Website: _____

You may also contact Class Counsel at the address and telephone number provided in Section 4 above. If your address changes or is different from the address on the envelope enclosing this Notice, please promptly notify the settlement administrator.

PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE

FOR MORE INFORMATION CALL 1-800-_____.